

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:18-cv-00160-MR-WCM**

GREGORY HANNAH,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
WESTROCK SERVICES, INC.,)	
)	
Defendant.)	
<hr/>)	

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 4]; the Magistrate Judge's Memorandum and Recommendation [Doc. 16] regarding the disposition of that motion; and the Plaintiff's Objections to the Memorandum and Recommendation [Doc. 21].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the Defendant's motion and to submit a recommendation for its disposition.

On February 26, 2019, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the partial motion to dismiss. [Doc. 16]. The

parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The Plaintiff timely filed Objections on March 12, 2019. [Doc. 21].

After careful consideration of the Memorandum and Recommendation and the Plaintiff's Objections thereto, the Court finds that the Magistrate Judge's proposed conclusions of law are correct and consistent with current case law. The Plaintiff asserts in his Objections that the Magistrate Judge failed to address three central points in his Memorandum and Recommendation. The three points, however, are clearly addressed in the Memorandum and Recommendation. While the Court of Appeals may reconsider its decision in Wrightson v. Pizza Hut of America, Inc., 99 F.3d 138 (4th Cir. 1996), it has not chosen (as yet) to do so. It is not for this Court to guess what the Court of Appeals may do in the future. Accordingly, the Court hereby overrules the Plaintiff's Objections and accepts the Magistrate Judge's recommendation that the motion to dismiss should be granted.

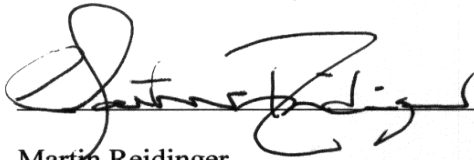
IT IS, THEREFORE, ORDERED that the Plaintiff's Objections to the Memorandum and Recommendation [Doc. 21] are **OVERRULED**; the Memorandum and Recommendation [Doc. 16] is **ACCEPTED**; and the Defendant's Motion to Dismiss [Doc. 4] is **GRANTED** as follows:

- (1) The Plaintiff's federal claim is **DISMISSED WITH PREJUDICE**;
and
- (2) The Court declines to exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367(c)(3) over the Plaintiff's state law claim, and such claim is therefore **DISMISSED WITHOUT PREJUDICE**.

The Clerk of Court is respectfully directed to close this case.

IT IS SO ORDERED.

Signed: March 20, 2019


Martin Reidinger
United States District Judge

